IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 431 OF 2004

Mehboob Abbas Ali Jamadar ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr. Ganesh Gole, for the Applicant.

Mr. K.V. Saste, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

1st November 2004

P.C.:

. Heard Mr. Gole. I find no reason to interfere at this interlocutory stage. The trial Court has recorded as of fact that the accused was attempting to prolong the proceedings for some reason or the other. That is the impression of fact gathered by the trial Court about the conduct of the Applicant. It is not possible to sit over the said opinion at this stage of the proceedings. If that opinion is correct, it necessarily follows that the order passed by the

trial Court directing to proceed with the trial on the basis that the accused is not interested in cross-examination of the concerned witness cannot be doubted. Hence, this petition should fail. It is, however, made clear that the grievance regarding any prejudice having been caused to the Applicant including the correctness of the procedure adopted by the trial Court can be examined in the appeal if required tobe filed by the Applicant. Petition disposed of accordingly. The trial Court may, however, proceed to decide the application preferred by the Applicant for recall of witness on its own merits in accordance with law uninfluenced by the present order before proceeding with further trial.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)